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Attorneys for Objecting Secured Creditor Real Time Resolutions Inc. as Agent for The Bank of  
New York Mellon FKA The Bank Of New York, as Successor To JPMorgan Chase Bank, N.A.,  
As Trustee For The Certificateholders of CWHEQ Revolving Home Equity Loan Trust, Series  
2005-1

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

In re	)	Bk. No. 2:14-bk-10522-VZ
	)	
KATHERINE ESCALANTE CLARK,	)	Chapter 13
Debtor.	)	
	)	OPPOSITION TO DEBTOR'S MOTION
	)	TO VALUE COLLATERAL
	)	
	)	Confirmation Hearing:
	)	Date : June 16, 2014
	)	Time : 9:00 A.M.
	)	Place: U.S. Bankruptcy Court
	)	255 East Temple St.
	)	Los Angeles, CA
	)	Courtroom 1368
	)	

Real Time Resolutions Inc. as Agent for The Bank of New York Mellon FKA  
The Bank Of New York, as successor to JPMorgan Chase Bank, N.A., as Trustee for The  
Certificateholders of CWHEQ Revolving Home Equity Loan Trust, Series 2005-1, its assignees  
and/or successors in interest, secured creditor in the above-entitled Bankruptcy proceeding, holds

1 a junior lien on the real property described as **714 South California Avenue, West Covina,**  
2 **California 91790**, hereby submits the following Opposition to Debtor's Motion to Value  
3 Collateral (the "Motion to Value"):

4 **I. STATEMENT OF FACTS**

5 Secured Creditor is the current payee of a Home Equity Credit Line Agreement  
6 And Disclosure Statement dated November 4, 2005 for a original maximum credit limit of  
7 \$100,000.00 ("Note") secured by a junior Deed of Trust ("Junior Deed of Trust") upon real  
8 property located at **714 South California Avenue, West Covina, California 91790** and legally  
9 described as set forth in the Deed of Trust ("Subject Property").

10 Debtor Katherine Escalante Clark ("Debtor") filed a voluntary petition for  
11 rehabilitation under Chapter 13 of the Bankruptcy Code on or about January 10, 2014. On the  
12 Voluntary Petition, Debtor admitted that the Subject Property is her principal place of residence.

13 Debtor filed the instant Motion to Value on February 20, 2014, alleging that the  
14 Subject Property should be valued at \$425,000. Debtor further alleges that the senior lien is  
15 \$458,909.11, and, therefore, Secured Creditor's lien is wholly unsecured and subject to  
16 avoidance pursuant to Section 506 of the Bankruptcy Code.

17 **II. SECURED CREDITOR REQUESTS ADDITIONAL TIME TO OBTAIN**  
18 **AN APPRAISAL OF THE SUBJECT PROPERTY**

19 Secured Creditor alleges that the Subject Property may be worth more than the  
20 amount alleged in the Motion to Value. Secured Creditor bases this belief upon an Broker's  
21 Price Opinion ("BPO"), which reflects a value for the Subject Property in the amount of  
22 \$490,000.00. A true and correct copy of the BPO is attached hereto as **Exhibit "1"**.

23 Because of the short time from when Secured Creditor received notice of the  
24 Motion To Value and when this opposition is due, Secured Creditor was unable to obtain an  
25 appraisal of the Subject Property in time to include an appraisal with this opposition. Secured  
26 Creditor is in the process of obtaining an expert appraisal of the Subject Property, including an  
27 interior inspection of the Subject Property which requires Debtors' cooperation, to contest the  
28

1 Motion To Value, and intends supplement this opposition accordingly once the appraisal is  
2 received. Accordingly, the Secured Creditor requests additional time if necessary to supplement  
3 its opposition to the Motion to Value.

4 **III. VALUE OF THE SUBJECT PROPERTY IS DETERMINED AS OF THE**  
5 **CONFIRMATION DATE**

6 Section 506(a) states “An allowed claim of a creditor secured by a lien on  
7 property in which the estate has an interest... is a secured claim to the extent of the value of such  
8 creditor’s interest in the estate’s interest in such property...*Such value shall be determined in*  
9 *light of the purpose of the valuation* and of the proposed disposition or use of such property, and  
10 in conjunction with any hearing on such disposition or use or *on a plan affecting such creditor’s*  
11 *interest.*” [11 U.S.C. §506(a)(emphasis added)]

12 As any valuation order pursuant to Section 506 to have a wholly unsecured junior  
13 lien deemed unsecured is for plan confirmation purposes (as the lien would remain against the  
14 property until the debtor received a discharge), the value should be determined as the  
15 confirmation date. Further, the Chapter 13 Plan is effective upon confirmation.

16 Therefore, the valuation should be determined as of the confirmation date, or as close as possible  
17 thereto.

18 **IV. CONCLUSION**

19 Based on the foregoing facts and applicable law, Secured Creditor respectfully  
20 requests:

- 21 1. That the Motion To Value be denied;
- 22 2. That an evidentiary hearing be set regarding the value of the Subject  
23 Property;
- 24 3. For such other relief as this Court deems appropriate.

25 Dated: March 12, 2014

Prober & Raphael, A Law Corporation

26 By /s/ Jeannette Marsala  
27 Jeannette R. Marsala, Esquire #253125  
28 Attorneys for Secured Creditor

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

Prober & Raphael, A Law Corporation, 20750 Ventura Boulevard, Suite 100, Woodland Hills, CA 91364

A true and correct copy of the foregoing document entitled (*specify*): OPPOSITION TO DEBTOR'S MOTION TO VALUE COLLATERAL will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 3/6/2014, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

TRUSTEE: Nancy K Curry (TR) ecfnc@trustee13.com

INTERESTED PARTY: Gina J Kim gjkim@piteduncan.com, ecfcacb@piteduncan.com

INTERESTED PARTY: Dhruv M Sharma ecfcacb@piteduncan.com

DEBTOR'S ATTORNEY: Tyson Takeuchi tyson@tysonfirm.com, tyson@ecf.inforuptcy.com

INTERESTED PARTY: United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On 3/13/2014, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL**

(*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

3/13/2014	Tina Gaboyan	/s/ Tina Gaboyan
<i>Date</i>	<i>Type Name</i>	<i>Signature</i>

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

**2: SERVED BY U.S. MAIL**

Honorable Vincent P. Zurzolo  
U.S Bankruptcy Court  
Edward R. Roybal Federal Bldg & Court House  
255 E Temple St, Ste 1360  
Los Angeles, CA 90012  
Judge's Copy

Katherine Escalante Clark  
714 S California Ave  
West Covina, CA 91790-3606  
Debtor

Tyson Takeuchi  
Law Offices of Tyson Takeuchi  
1100 Wilshire Blvd Ste 2606  
Los Angeles, CA 90017  
Debtor's Attorney

Trustee  
Nancy K Curry (TR)  
700 S Flower Street, Suite 1215  
Los Angeles, CA 90017

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This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.